

1 BARRY J. PORTMAN
Federal Public Defender
2 NICHOLAS P. HUMY
Assistant Federal Public Defender
3 160 West Santa Clara Street, Suite 575
San Jose, CA 95113
4 Telephone: (408) 291-7753
5 Counsel for Defendant TRAN-TU
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 LANH TRAN-TU,

15 Defendant.
16

No. CR-09-70225 HRL

STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING HEARING DATE
AND EXCLUDING TIME UNDER THE
SPEEDY TRIAL ACT

17 STIPULATION

18 Defendant Lanh Tran-Tu, by and through Assistant Federal Public Defender Nicholas
19 Humy, and the United States, by and through Assistant United States Attorney Gary G. Fry,
20 hereby stipulate that, with the Court's approval, the court date currently scheduled for Thursday,
21 November 19, 2009, shall be continued to Thursday, December 3, 2009, at 1:30 p.m.

22 The purpose of the continuance is to accommodate defense counsel's out-of-district
23 medical treatment.

24 The parties agree that the time between November 19, 2009, and December 3, 2009, is
25 excludable under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), for continuity of
26 counsel and effective preparation by defense counsel.

1 The defense further agrees to extend the time for preliminary hearing beyond the 20 days
2 prescribed under Rule 5.1(c) and (d) of the Federal Rules of Criminal Procedure.

3 IT IS SO STIPULATED.

4
5 Dated: November 17, 2009

6
7 /s/
NICHOLAS P. HUMY
Assistant Federal Public Defender

8
9 Dated: November 17, 2009

10 /s/
GARY G. FRY
Assistant United States Attorney

11
12
13
14 **FRCP 5.1 WAIVER**

15 Pursuant to Rule 5.1(c) and (d) of the Federal Rules of Criminal Procedure, I, Lanh Tran-
16 Tu, hereby waive my right to have a preliminary hearing scheduled within 20 days of my initial
17 appearance.

18 Dated:

19 
20 LANH TRAN-TU

21
22 **[PROPOSED] ORDER**

23 GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY
24 ORDERED that the hearing currently set for November 19, 2009, shall be continued to
25 Thursday, December 3, 2009, at 1:30 p.m.

26 THE COURT FINDS that failing to exclude the time between November 19, 2009, and

1 December 3, 2009, would unreasonably deny the defendant's continuity of counsel, and would
2 unreasonably deny counsel the reasonable time necessary for effective preparation, taking into
3 account the exercise of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

4 THE COURT FURTHER FINDS that the ends of justice served by excluding the time
5 between November 19, 2009, and December 3, 2009, from computation under the Speedy Trial
6 Act outweigh the interests of the public and the defendant in a speedy trial.

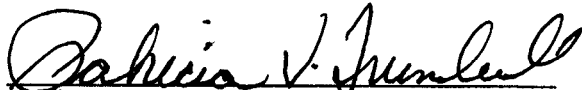
7 THEREFORE, IT IS HEREBY ORDERED that the time between November 19, 2009,
8 and December 3, 2009, shall be excluded from computation under the Speedy Trial Act, 18
9 U.S.C. § 3161(h)(7)(A) and (B)(iv).

10 THE COURT FURTHER FINDS that there is good cause to extend the time for a
11 preliminary hearing, taking into account the public interest in the prompt disposition of criminal
12 cases, and that the defendant has consented to an extension.

13 THEREFORE, IT IS HEREBY ORDERED that, pursuant to Fed. R. Crim. P. 5.1(d), the
14 time for preliminary hearing is extended beyond the 20 days prescribed by Rule 5.1(c).

15 IT IS SO ORDERED.

16 Dated: 11/18/09

17 
18 THE HONORABLE HOWARD R. LLOYD
19 United States Magistrate Judge
20
21
22
23
24
25
26